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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,218	01/27/2000	David H. Sitrick	STD 1757	9593
20787	7590	10/21/2003		
SITRICK & SITRICK 8340 N LINCOLN AVENUE SUITE 201 SKOKIE, IL 60077				
			EXAMINER FLETCHER, MARLON T	
			ART UNIT 2837	PAPER NUMBER

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/492,218

Applicant(s)

SITRICK, DAVID H.

Examiner

Marlon T Fletcher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-113 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41-51 is/are allowed.
- 6) ☒ Claim(s) 1-40,53-76,79-96 and 99-113 is/are rejected.
- 7) ☒ Claim(s) 52,77,78,97 and 98 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-40, and 53-76, 79-96, and 99-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemelson et al. (5,823,788) in view of Ishii (5,400,687).

Lemelson et al. disclose a music display system for use by a plurality of users in providing a plurality of display presentations of a selected musical composition, said system comprising: a plurality of individual workstations (12(s)), each workstation comprising a communication interface (abstract) providing for communications with the respective workstation of music data representative of the selected musical composition and memory for locally storing the music data responsive to the communications interface as discussed in column 3, lines 29-35 and lines 55-64; and a display apparatus (16(s)) for providing a local visual display presentation representative of the selected musical composition responsive to the stored data. The system further comprises an input device (13(s)) responsive to a performance by the user of the displayed composition for providing an output of user performance data. The music display system comprises memory means(31); processing means (CPU 30)coupled to the memory means (31) for processing the music data to provide presentation data; a presentation apparatus (16(s)) to provide a video presentation on a video display

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responsive to the presentation data; and means (23) for editing the video presentation to create a modified presentation and storing data representative of the editing in the memory means as discussed in column 4, lines 25-36; wherein the processing means provides modified presentation data responsive to the data representative of the editing, and wherein the presentation apparatus is responsive to the modified presentation data to display the modified video presentation as discussed in column 5, line 47 through column 6, line 10. The system is housed in a common housing to form a self-contained unit as seen in figure 4. The system further comprises means for synchronizing the presentation on the plurality of local visual display presentations of the selected musical composition, wherein the system can be used in a music environment to provide the same as discussed in column 6, lines 40-58. Lemelson et al. provide a system, wherein a user interface is provided for a user signal responsive to a user stimulus. Lemelson et al. disclose that the user interface is a touchscreen video display as discussed in column 4, lines 28-32.

Lemelson et al. disclose most of the components of the claimed invention.

However, the differences are made up by Ishii. Ishii discloses a system, comprising advancing the presentation of the video display to show the time advance of music notation responsive to the user signal via means (13, 14). Ishii provide a system, wherein the user interface is hands-free and is a switch as seen in figure 1. Ishii provides a system, wherein the music display changes location over time, wherein the multiple different signals provide for selective control of music display location

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movement to one of forwards, backwards, and to a marked location as seen in figure 1.

The system includes a footswitch (21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the teachings of Ishii with the apparatus of Lemelson et al., because Ishii provide small enhancements that overall make Lemelson et al. more efficient with more ability for performance in editing as well as displaying musical composition.

Allowable Subject Matter

1. Claims 41-51 are allowed.
2. Claims 52, 77, 78, 97, and 98, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

3. Applicant's arguments filed 07/29/2003 have been fully considered but they are not persuasive. The applicant's arguments have been fully reviewed. The applicant's argues hindsight and believes that the reference do not teach all of the limitations recited. The examiner disagrees. As claimed, it appears that the rejected claims are met by the prior art. The rejected claims do not distinguish over the prior art, and are not written in a manner that would clearly distinguish over the prior art. For these reasons, the rejections remain.

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4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

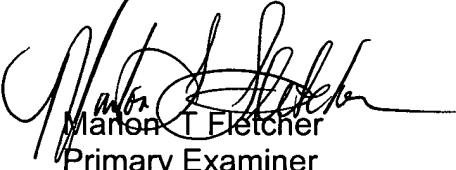
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T Fletcher whose telephone number is 703-308-0848. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 703-308-3370. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Marion T. Fletcher
Primary Examiner
Art Unit 2837

MTF
October 20, 2003